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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,388	05/09/2005	Wolfgang Gaschler	271531US0PCT	2886

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EXAMINER

BERNSHTEYN, MICHAEL

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/534,388

Applicant(s)

GASCHLER, WOLFGANG

Examiner

Michael Bernshteyn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/01/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

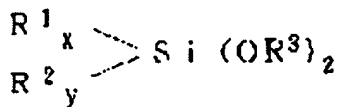
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4 and 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by
JP 07-090012 A
Ishinara et al. (~~U.S. Patent 6,379,548~~).

With regard to limitation of instant claims 1-4 and 7-11, Ishinara discloses an organic silicon compound (D) of the formula:



wherein R¹ is an N-containing heterocyclic substituent; R² is a hydrocarbon group with 1-10 carbon atoms (or R⁴O, wherein R⁴ is a hydrocarbon group with 3-10 carbon atoms); R³ is CH₃ or C₂H₅; (x) is 1 or 2; (y) is 0 or 1; (z) is 2 or 3; x + y + z = 4 (e.g., **2,3,4-trimethyl-3-azocyclopentyltrimethoxysilane**),

to obtain a polymerization catalyst component and copolymerizing propylene and ethylene in the presence of this catalyst component (abstract).

Ishinara discloses that aromatic system of the organosilicon compound can include ethyleneimine, **pyrrole**, pyrrolidine, **pyrazole**, **imidazole**, **triazole**, **oxazole**, **thiazole**, **pyridine**, pyrazine, etc. (page 7, [0040]).

Ishinara discloses a wide number of substituent for R¹ including five and six membered rings, which are the most desirable (pages 7-8, [0041]-[0043]). R², R³ and R⁴ can be alkyl, aryl and aralkyl groups, benzyl, phenyl, etc. (page 8, [0044]).

Therefore, the organic silicon compound of the above formula is readable as compound of the formulae (III) and (IV) in instant claim 4.

The amount of the organic silicon compound in the polymer composition is within the claimed range (Example and table 1, pages 11-14, [0068]-[0076]).

2. Claims 1, 5-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Baguley et al. ("Reductive free-radical alkylations and cyclisations mediated by 1-alkylcyclohexa-2,5-diene-1-carboxylic acids", University of St. Andrews, School Of Chemistry, St. Andrews, File, UK KY16 9ST, Journal of the Chemical Society, Perkin Transaction 1: Organic and Bio-Organic Chemistry, 1998, 13, 2073-2082).

With regard to limitation of instant claims 1, 5-7 and 10, Baguley discloses a range of 1-alkylcyclohexa-2,5-diene-1 carboxylic acids prepared by Birch reduction-alkylation of benzoic acid and their efficiency as mediators of alkyl radical chain addition and cyclisation processes (abstract).

Baguley clearly discloses that 1-cyclopentylcyclohexa-2,5-cyclohexadiene-1 carboxylic acid, 1-tert-Butylcyclohexa-2,5-cyclohexadiene-1 carboxylic acid, 1-Benzylcyclohexa-2,5-cyclohexadiene-1 carboxylic acid, etc. are used as mediators with

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carboxylic acid, acrylonitrile, etc. for obtaining polymer compounds (Examples, pages 2079-2082).

Conclusion

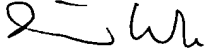
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bernshteyn whose telephone number is 571-272-2411. The examiner can normally be reached on M-F 8-5:30.

✓ If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Bernshteyn
Patent Examiner
Art Unit 1713

MB
05/26/2006


DAVID W. WU
SUPERVISORY PATENT EXAMINER
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